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Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, et al.,

Plaintiffs,

v.

SAP AG, et al.,

Defendants.

Case No. 07-CV-1658 PJH

**DECLARATION OF SCOTT W.
COWAN IN SUPPORT OF
STIPULATED REQUEST TO EXTEND
RESPONSIVE BRIEFING SCHEDULE**

Date: N/A
Time: N/A
Courtroom: E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

1 I, SCOTT W. COWAN, declare:

2 I am a partner in the law firm of Jones Day, 717 Texas, Suite 3300, Houston, Texas, a
3 member in good standing of the bar of Texas, admitted *pro hac vice* and counsel of record for
4 Defendants SAP AG, SAP Americas, and TomorrowNow, Inc. in the above-captioned action. I
5 make this declaration based on personal knowledge and, if called upon to do so, could testify
6 competently thereto.

7 1. On July 25, 2008, the Court issued an Order setting a briefing schedule for
8 Plaintiffs' Motion to Compel Production of Clawed Back Documents. Dkt. No. 130. The Order
9 directed Plaintiffs to file their motion by August 1, Defendants to file their opposition by August
10 8, and Plaintiffs to file their reply by August 13. The Court did not set a hearing date for the
11 motion, but indicated that it may hear the motion at the next discovery conference on August 28.

12 2. Plaintiffs' filed their motion on Friday afternoon, August 1, as scheduled, along
13 with a related administrative motion to file the motion to compel and related exhibits under seal.
14 Defendants' counsel then began work on their opposition/response to both motions, with the
15 majority of work being handled by counsel located in Jones Day's Houston office.

16 3. On Monday morning, August 4, it became apparent that Tropical Storm Edouard
17 was likely headed towards the Houston area, causing Jones Day's Houston lawyers, including
18 myself, to interrupt their work on the opposition/response in order to prepare for the storm's
19 arrival. On Tuesday, August 5, the storm made landfall near the Houston area, forcing Jones
20 Day's Houston office to close that entire day and further frustrating Jones Day's Houston-based
21 team's efforts to work on the opposition/response to Plaintiffs' motions.

22 4. As a result of the disruption caused by the approach and landfall of Tropical
23 Storm Edouard, Defendants need a short extension of time to complete the opposition brief.

24 5. On August 7, 2008, I asked Geoff Howard, counsel for Oracle, if he would agree
25 to extend the time for Defendants to file their opposition brief to Wednesday, August 13. Mr.
26 Howard agreed, provided that Defendants would agree to provide Plaintiffs with an equivalent
27 number of business days extension of the time for Oracle to file its reply briefs, to August 20.
28 Defendants have agreed to that request.

6. By agreement of the parties, the Court moved the cut-off of fact discovery in this case from June 25, 2008 to June 19, 2009. Dkt. Nos. 50 & 84. Other dates were also modified at the same time. *Id.* Given the short extension requested, I do not believe granting of this motion will have any material detrimental effect on the schedule for this case.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed this 7th day of August, 2008 in Houston, Texas.

/S/ Scott W. Cowan
SCOTT W. COWAN